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8 **BEFORE THE**
9 **STATE BOARD OF OPTOMETRY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. CC 2006-118

13 MOHAMMED ALEXANDER BONAKDAR
aka M. ALEXANDER BONAKDAR
14 801 North Tustin Avenue, Suite 404
Santa Ana, CA 92705

A C C U S A T I O N

15 Optometry Certificate of Registration No. 9763,
and
16 Optometric Eye Care Center of Orange County
Fictitious Name Permit No. 2884

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

- 21 1. Mona Maggio (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the State Board of Optometry, Department of Consumer
23 Affairs (Board).
- 24 2. On or about September 9, 1991, the Board issued Optometry Certificate of
25 Registration No. 9763 to Mohammed Alexander Bonakdar aka M. Alexander Bonakdar
26 (Respondent). The Optometry Certificate of Registration was in full force and effect at all times
27 relevant to the charges brought herein and will expire on May 31, 2009, unless renewed.

28 / / /

3. On or about January 9, 2003, the Board issued "Optometric Eye Care Center of Orange County" Fictitious Name Permit No. 2884 to Mohammed Alexander Bonakdar aka M. Alexander Bonakdar (Respondent). The "Optometric Eye Care Center of Orange County" Fictitious Name Permit was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2009, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board, under the authority of the following laws. All Section references are to the Business and Professions Code unless otherwise indicated.

5. Section 118, subdivision (b), provides that the suspension / expiration / surrender / cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 725 states:

“Repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist. However, pursuant to Section 2241.5, no physician and surgeon in compliance with the California Intractable Pain Treatment Act shall be subject to disciplinary action for lawfully prescribing or administering controlled substances in the course of treatment of a person for intractable pain.”

7. Section 810 states:

"(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities;

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

1 8. Section 3110 states:

2 "The board may take action against any licensee who is charged with

3 unprofessional conduct, and may deny an application for a license if the applicant has committed

4 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct

5 includes, but is not limited to, the following:

6 "(a) Violating or attempting to violate, directly or indirectly assisting in or

7 abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules

8 and regulations adopted by the board pursuant to this chapter.

9 ...

10 "(e) The commission of fraud, misrepresentation, or any act involving dishonesty

11 or corruption, that is substantially related to the qualifications, functions, or duties of an

12 optometrist.

13 "(f) Any action or conduct that would have warranted the denial of a license.

14 ...

15 "(h) Denial of licensure, revocation, suspension, restriction, or any other

16 disciplinary action against a health care professional license by another state or territory of the

17 United States, by any other governmental agency, or by another California health care

18 professional licensing board. A certified copy of the decision or judgment shall be conclusive

19 evidence of that action.

20 ...

21 "(q) The failure to maintain adequate and accurate records relating to the

22 provision of services to his or her patients.

23 ...

24 9. Section 3041.1 states: "With respect to the practices set forth in

25 subdivisions (b), (d), and (e) of Section 3041, optometrists diagnosing or treating eye disease

26 shall be held to the same standard of care to which physicians and surgeons and osteopathic

27 physicians and surgeons are held."

28 / / /

1 10. Section 3105 states: "Altering or modifying the medical record of any
2 person, with fraudulent intent, or creating any false medical record, with fraudulent intent,
3 constitutes unprofessional conduct. In addition to any other disciplinary action, the State Board
4 of Optometry may impose a civil penalty of five hundred dollars (\$500) for a violation of this
5 section."

6 11. Section 3106 states: "Knowingly making or signing any certificate or other
7 document directly or indirectly related to the practice of optometry that falsely represents the
8 existence or nonexistence of a state of facts constitutes unprofessional conduct."

9 12. Section 125.3 provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations
11 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 FIRST CAUSE FOR DISCIPLINE

14 (Revocation of a License Issued, or Discipline Imposed, by Another State)

15 13. Respondent is subject to disciplinary action under section 3110,
16 subdivision (h), of the Code on the grounds of unprofessional conduct in that on December 1,
17 2005, the State of Florida Board of Optometry (Florida Board of Optometry), in its Corrected
18 Final Order, in Case No. 2004-23029, License No. OP 2488, entitled "Department of Health vs.
19 Mohammad A. Bonakdar", revoked Respondent's Florida optometry license for violating a
20 lawful order of the Florida Board of Optometry previously entered in a disciplinary proceeding.
21 The Florida Board of Optometry made the following findings in support of the discipline:

22 a. On or around February 19, 2004, the Florida Board of Optometry filed a
23 final order in Case Number 2002-07279. The final order imposed an administrative fine of
24 \$2500 and costs of \$577.33, to be paid within thirty days of filing of the final order. In addition,
25 the final order imposed a reprimand, provided that Respondent's continuing education for the
26 biennium of 1999-2001 and 2001-2003 shall be audited, and required Respondent to provide
27 proof of compliance with the final order in Case Number 1997-22037, within thirty days of filing
28 the final order.

1 b. Respondent violated the lawful order entered in case number 2002-07279,
2 by failing to pay the fine of \$2500 and costs of \$577.33, and by failing to pay the fine of \$750
3 and costs of \$40, imposed by the final order in case number 1997-22037, by no later than thirty
4 days after February 19, 2004.

5 A copy of the Florida Board of Optometry's Corrected Final Order is attached to
6 this Accusation as exhibit A, and is incorporated herein by reference.

7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct - False and Fraudulent Claim)

9 14. Respondent is subject to disciplinary action under section 3110 of the
10 Code on the grounds of unprofessional conduct for having violated Code section 810, in that
11 Respondent knowingly presented or caused to be presented a false or fraudulent claim for
12 payment of a loss under a contract of insurance and/or knowingly prepared, made, or subscribed
13 a writing with intent to present or use the same, or to allow it to be presented or used in support
14 of a false or fraudulent claim. The circumstances are as follows:

15 a. Patient P.G.¹ visited Respondent's office for an eye examination on
16 November 2, 2005. Respondent was a participating vision benefit provider of Patient P.G.'s
17 Vision Service Plan (VSP) Insurance. Patient P.G. had dual coverage under VSP's Signature
18 Plan and Primary Eye Care Plan. During Patient P.G.'s visit, Respondent recorded performing a
19 medical examination (medical examination) of the eye(s) for the purpose of evaluating, treating
20 and managing some disease condition of the eye(s). The Respondent billed VSP for the
21 November 2, 2005 medical examination and for performing routine vision examination (routine
22 examination) services on November 3, 2005.

23 b. Patient P.G.'s treatment records do not contain any documentation or
24 substantiation of Respondent's performance of a routine examination on November 3, 2005.

25 / / /

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27
28 1. The patients' full name will be released to Respondent during discovery. Initials are
used here in order to protect the patients' privacy.

1 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
2 P.G.

3 c. Patient J.K. visited Respondent's office for an eye examination on August
4 1, 2005. Respondent was a participating vision benefit provider of Patient J.K.'s VSP Insurance.
5 Patient J.K. had dual coverage under VSP's Signature Plan and Primary Eye Care Plan. During
6 Patient J.K.'s visit, Respondent recorded performing medical examination services on patient
7 J.K. The Respondent billed VSP for the August 1, 2005 medical examination and for performing
8 routine examination services on August 2, 2005.

9 d. Patient J.K.'s treatment records do not contain any documentation or
10 substantiation of Respondent's performance of a routine examination on August 2, 2005.
11 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
12 J.K.

13 e. Patient J.L. visited Respondent's office for an eye examination on January
14 4, 2006. Respondent was a participating vision benefit provider of Patient J.L.'s VSP Insurance.
15 Patient J.L. had dual coverage under VSP's Signature Plan and Primary Eye Care Plan. During
16 Patient J.L.'s visit, Respondent recorded performing medical examination services on patient J.L.
17 The Respondent billed VSP for the January 4, 2006 medical examination and for performing
18 routine examination services on January 5, 2006.

19 f. Patient J.L.'s treatment records do not contain any documentation or
20 substantiation of Respondent's performance of a routine examination on January 5, 2006.
21 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
22 J.L.

23 g. Patient M.Q. visited Respondent's office for an eye examination on
24 October 19, 2005. Respondent was a participating vision benefit provider of Patient M.Q.'s VSP
25 Insurance. Patient M.Q. had dual coverage under VSP's Signature Plan and Primary Eye Care
26 Plan. During Patient M.Q.'s visit, Respondent recorded performing medical examination
27 services on patient M.Q. The Respondent billed VSP for the October 19, 2005 medical
28 examination and for performing routine examination services on October 20, 2005.

1 h. Patient M.Q.'s treatment records do not contain any documentation or
2 substantiation of Respondent's performance of a routine examination on October 20, 2005.
3 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
4 M.Q.

5 i. Patient G.R. visited Respondent's office for an eye examination on
6 September 13, 2005. Respondent was a participating vision benefit provider of Patient G.R.'s
7 VSP Insurance. Patient G.R. had dual coverage under VSP's Signature Plan and Primary Eye
8 Care Plan. During Patient G.R.'s visit, Respondent recorded performing medical examination
9 services on patient G.R. The Respondent billed VSP for the September 13, 2005 medical
10 examination and for performing routine examination services on September 14, 2005.

11 j. Patient G.R.'s treatment records do not contain any documentation or
12 substantiation of Respondent's performance of a routine examination on September 14, 2005.
13 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
14 G.R.

15 k. Patient R.R. visited Respondent's office for an eye examination on August
16 16, 2005. Respondent was a participating vision benefit provider of Patient R.R.'s VSP
17 Insurance. Patient R.R. had dual coverage under VSP's Signature Plan and Primary Eye Care
18 Plan. During Patient R.R.'s visit, Respondent recorded performing routine examination services
19 on patient R.R. The Respondent billed VSP for the August 16, 2005 routine examination and for
20 performing medical examination services on the same day.

21 l. Patient R.R.'s treatment records do not contain any documentation or
22 substantiation of Respondent's performance of a medical examination on August 16, 2005.
23 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
24 R.R.

25 m. Patient D.S. visited Respondent's office for an eye examination on
26 November 29, 2005. Respondent was a participating vision benefit provider of Patient D.S.'s
27 VSP Insurance. Patient D.S. had dual coverage under VSP's Signature Plan and Primary Eye
28 Care Plan. During Patient D.S.'s visit, Respondent recorded performing routine examination

1 services on patient D.S. The Respondent billed VSP for the November 29, 2005 routine
2 examination and for performing medical examination services on the same day.

3 n. Patient D.S.'s treatment records do not contain any documentation or
4 substantiation of Respondent's performance of a medical examination on November 29, 2005.
5 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
6 D.S.

7 o. Patient C.H. visited Respondent's office for an eye examination on August
8 9, 2005. Respondent was a participating vision benefit provider of Patient C.H.'s VSP
9 Insurance. Patient C.H. had dual coverage under VSP's Signature Plan and Primary Eye Care
10 Plan. During Patient C.H.'s visit, Respondent recorded performing medical examination services
11 on patient C.H. The Respondent billed VSP twice (2) for the August 9, 2005 medical
12 examination and for performing routine examination services on August 10, 2005.

13 p. Patient C.H.'s treatment records do not contain any documentation or
14 substantiation of Respondent's performance of a routine examination on August 10, 2005.
15 Respondent prepared or caused to be prepared a claim to VSP for services not rendered to Patient
16 C.H.

17 THIRD CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct-Alteration of Medical Records)

19 15. Respondent is subject to disciplinary action under section 3110 of the
20 Code on the grounds of unprofessional conduct for having violated Code section 3105, in that
21 between August 1, 2005, and January 5, 2006, Respondent fraudulently submitted bills to VSP
22 Insurance.

23 16. Incorporating by reference the allegations in paragraph 14 above,
24 Respondent's conduct in fraudulently submitting bills to VSP necessarily involved altering and
25 modifying the medical records of some of his patients with fraudulent intent and creating a false
26 medical record with fraudulent intent. This conduct constitutes unprofessional conduct within
27 the meaning of Code section 3105 and provides grounds for disciplinary action under Code
28 section 3110.

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17. Respondent is subject to disciplinary action under section 3110 of the Code on the grounds of unprofessional conduct for having violated Code section 3106, in that Respondent knowingly made or signed a document relating to the practice of optometry which falsely represented the existence or nonexistence of a state of facts, as set forth above in paragraphs 14, 15 and 16.

18. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges as follows:

PRAYER

1. Revoking or suspending Optometry Certificate of Registration No. 9763,
issued to Mohammed Alexander Bonakdar aka M. Alexander Bonakdar.

3. Ordering Mohammed Alexander Bonakdar to pay the State Board of Optometry the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

/ / /

4. Taking such other and further action as deemed necessary and proper.

DATED: 07/24/2008



MONA MAGGIO

Executive Officer
State Board of Optometry
Department of Consumer Affairs
State of California

Complainant

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